

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
Civil Appeal No(s) 4042-4043 of 2019

The Collector, Daman

Appellant(s)

Versus

Tarun Patel & Ors Etc

Respondent(s)

ORDER

Admit.

The grievance of the appellant is that the directions which have been issued by the National Green Tribunal¹ in its Western Zone Bench at Pune on 27 October 2017 will affect the quality of the water of the river Damanganga, particularly in the area outlying the Union Territory of Daman. The Tribunal had issued the following directions:

“(i) We direct Respondent No.5 – Vapi Green Environment Ltd to extend the discharge point through the pipeline and a diffuser system as suggested by NIO to the location at 20°21'45.29" N, 72°52' 51.98"E approximately 4.5 Km downstream from existing discharge location of CETP, Vapi in the Damanganga estuary within a period of 18 months at their own cost.

(ii) We direct the Respondent No. 1 – Collector Vaisad, the Respondent No. 3 – GPCB and Respondent No. 7 –MoEF to extend co-operation in the matter of extending this pipeline to the Respondent No. 5 – Vapi Green Environment Ltd in accordance with law.

1 “Tribunal”

(iii) NIO is directed to furnish complete pipeline and diffuser design/plan to the Respondent No. 5 for executing the directions herein within a period of 60 days.

(iv) Respondent No. 3 – GPCB shall monitor the water quality of the location around 5 kms radius before the discharge is started at the proposed location. Meanwhile the CETP shall maintain the prescribed parameters of the discharged effluent.

(v) Respondent No. 5 – Vapi Green Environment Ltd is directed to make appropriate application to Respondent No. 3 – GPCB for consent to operate the extended pipeline.

(vi) Minutes of Meeting dated 4th September, 2017 shall be placed on record within a week.”

Aggrieved by the above directions, the present appeals have been instituted by the Collector, Daman.

The Tribunal has proceeded on the basis that the directions issued were “with a view to settle the dispute amicably” and that the broad terms of the agreement were arrived at during a meeting held on 4 September 2017 pursuant to the order of the Tribunal dated 8 August 2017. The Tribunal recorded that the meeting was attended by the Principal Scientist of the National Institute of Oceanography, the first respondent, the representatives of the Gujarat Pollution Control Board² and Vapi Green Environment Ltd³, besides persons representing the residents of Village Chandor, Namdha District.

The grievance urged by Mr. ANS Nadkarni, learned Additional Solicitor General on behalf of the Collector, Daman is that no hearing was afforded to him as a representative voice of the Union Territory. Mr. Pinaki Mishra, learned Senior Counsel appearing on behalf of the operator at CETP, Vapi has contested this submission. According to the submission of the operator of

2 “GPCB”

3 “CETP, Vapi”

the CETP, Vapi, the Collector did not choose to attend the meeting and should not be permitted to raise a grievance at this stage.

In our view, it is not necessary for the Court to go into the technicality of whether or not a notice was issued to the Collector, Daman to attend the meeting. Whether or not there is substance in the grievance of the Collector, Daman, must in our view be duly assessed by the Tribunal.

The Collector was espousing the grievance of the residents of Daman and it has to be considered. The grievance, as we have noted above, is that the laying down of the pipeline in accordance with the impugned directions of the Tribunal will have a deleterious effect on the quality of the water of the river Damanganga within the Union Territory of Daman. This raised a serious issue which is to be assessed by the Tribunal.

Since the grievance has not been addressed by the Tribunal, we are of the view that it would be appropriate to direct the Tribunal to do so. We order accordingly.

To facilitate the completion of this exercise, we direct that the impugned order of the Tribunal dated 23 October 2017 shall remain stayed until the Tribunal hears the grievance of the appellant and passes a reasoned order thereon. We permit the appellant to file a Miscellaneous Application before the Tribunal within a period of three weeks from today to which all other contesting parties would be at liberty to respond. The Tribunal is requested to hear the application at its early convenience. Pending disposal of the application, the interim order which was passed by this Court on 15 April 2019 shall continue to remain in operation.

We clarify that in view of the above order which has been passed in the presence of the learned counsel for the contesting parties, it has become unnecessary for the Court to express any opinion on the merits of the rival submissions as regards the grievance of the appellant.

The appeals are accordingly disposed of.

Pending application(s), if any, shall also stand disposed of.

.....**J.**
(Dr Dhananjaya Y Chandrachud)

.....**J.**
(Indira Banerjee)

New Delhi
July 19, 2019

ITEM NO.1

COURT NO.10

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4042-4043/2019

THE COLLECTOR DAMAN

Appellant(s)

VERSUS

TARUN PATEL & ORS. ETC.

Respondent(s)

(IA No. 95212/2019 - APPLICATION FOR VACATION OF INTERIM ORDER)

Date : 19-07-2019 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Appellant(s)

Mr. ANS Nadkarni, ASG
Ms. Suhasini Sen, Adv.
Ms. Priyanka Das, Adv.
Ms. Anil Katiyar, Adv.
Ms. Ragini Pandey, Adv.
Mr. Raj Bahadur Yadav, AOR

For Respondent(s)

Mr. K.K. Sharma, Adv.
Aninta Singh, Adv.
J. Shilpa Singh, Adv.
Mr. Danish Zubair Khan, AOR

Ms. Ruchi Kohli, AOR
Ms. Nidhi Jaswal, Adv.
Ms. Srishti Mishra, Adv.

Mr. Pinaki Misra, Sr. Adv.
Mr. Mandeep Kalra, Adv.
Mr. Sandeep Mishra, Adv.
Mr. Nishant Shankar, Adv.
Mr. Nitesh Shrivastava, Adv.
Ms. Isha Khurana, Adv.
Ms. Jasmine Damkewala, AOR

UPON hearing the counsel the Court made the following
O R D E R

Admit.

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)